

AMENDED IN ASSEMBLY AUGUST 20, 2012

AMENDED IN ASSEMBLY JUNE 11, 2012

AMENDED IN SENATE MAY 7, 2012

AMENDED IN SENATE APRIL 11, 2012

**SENATE BILL**

**No. 1319**

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**Introduced by Senator Liu**

February 23, 2012

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An act to amend Sections 1516, 1526.8, and 1530.5 of, and to amend and repeal Section 1596.792 of, the Health and Safety Code, and to amend Sections 4094, 11462, 11466.2, and 18987.62 of the Welfare and Institutions Code, relating to children.

LEGISLATIVE COUNSEL'S DIGEST

SB 1319, as amended, Liu. Child welfare.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation by the State Department of Social Services of community care facilities, as defined. Violation of the provisions relating to community care facilities is a misdemeanor.

*The act exempts from its provisions a public recreation program operated as prescribed for kindergarten and grades 1 to 12, inclusive, that operates less than 16 hours per week and for a total of 12 weeks or less during a 12-month period. Existing law, effective January 1, 2013, expands that exemption to include such a program that operates less than 20 hours per week and for a total of 14 weeks or less during a 12-month period.*

Existing law includes foster family agencies that certify foster family homes and licensed foster family homes within the provisions regulating a community care facility, and requires the department, in establishing

these regulations, to consider these homes as private residences, and to establish regulations for these foster family homes and certified family homes of foster family agencies as a separate regulation package from regulations for all other community care facilities. Under existing law, certified family homes are not subject to civil penalties under the act, and licensed foster family homes are only subject to specified civil penalties.

This bill would provide instead that licensed foster family homes, as well as certified family homes of foster family agencies, are not subject to civil penalties under the California Community Care Facilities Act, except that the certified family homes and foster family homes both would be subject to certain penalties relating to fingerprinting requirements and operating without a valid license.

Existing ~~law~~ law, until January 1, 2014, ~~define defines~~ and ~~regulate regulates~~ crisis nurseries and ~~require requires~~ the State Department of Social Services to authorize the use of volunteers as caregivers in a crisis nursery, under certain circumstances.

This bill would delete the repeal of these provisions thereby making them operate indefinitely. Because this bill would extend the application of a crime, it would impose a state-mandated local program.

The California Child Day Care Facilities Act provides for the licensing and regulation of child day care facilities, as defined. The act does not apply to specified entities, and, until January 1, 2014, includes crisis nurseries among the specified entities.

This bill would delete the repeal of these provisions, thereby making that exemption operate indefinitely.

Existing law provides for the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. Under existing law, foster care providers licensed as group homes have rates established by classifying each group home program and applying a standardized schedule of rates. Existing law requires the department to determine the rate classification level (RCL) for new and existing providers and for those programs requesting an RCL increase, which is based, in part, on a program audit of documentation and other information. Existing law also requires the department to perform group home program and fiscal audits as needed.

This bill would provide that for audit purposes, if a group home program serves a mixture of AFDC-FC eligible and ineligible children, the weighted hours for services provided and the capacity of the home

shall be adjusted by the ratio of AFDC-FC eligible children to all children in the placement.

Existing law requires the State Department of Mental Health to establish, by regulation, specified program standards for any facility licensed as a community treatment facility *and authorizes the State Department of Health Care Services to adopt or amend regulations pertaining to these program standards*. Existing law establishes, until January 1, ~~2013~~ 2014, certain standards with respect to the required nursing staff at a community treatment facility that admits children who have been assessed not to require medical services that require 24-hour nursing coverage.

This bill would delete the ~~repeat~~ *expiration date* of the *provisions* applicable to the nursing staff requirements described above, thereby making those staffing requirements operative indefinitely.

Under existing law, each county may enter into performance agreements with nonprofit agencies to encourage innovation in the delivery of children's services, to develop services not available in the community, and to promote change in the child welfare services system. Existing law authorizes the State Department of Social Services to waive otherwise applicable regulations relating to foster care payments and the operation of group homes for a period of up to 3 years, in order to facilitate these performance agreements. Existing law authorizes the department to extend the regulation waivers for up to 3 additional years, based on a review and analysis of specified information.

This bill would revise the waiver extension provisions to instead authorize the department to extend the waiver in increments of 3 years, based on a review and analysis of the information specified in existing law.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1516 of the Health and Safety Code, as  
2 added by Section 2 of Chapter 519 of the Statutes of 2010, is  
3 amended to read:

4     1516. (a) For purposes of this chapter, “crisis nursery” means  
5 a facility licensed by the department to provide short-term, 24-hour  
6 nonmedical residential care and supervision for children under six  
7 years of age, who are voluntarily placed for temporary care by a  
8 parent or legal guardian due to a family crisis or stressful situation  
9 for no more than 30 days.

10    (b) A crisis nursery shall be organized and operated on a  
11 nonprofit basis by either a private nonprofit corporation or a  
12 nonprofit public benefit corporation.

13    (c) “Voluntary placement,” for purposes of this section, means  
14 a child, who is not receiving Aid to Families with Dependent  
15 Children-Foster Care, placed by a parent or legal guardian who  
16 retains physical custody of, and remains responsible for, the care  
17 of his or her children who are placed for temporary emergency  
18 care, as described in subdivision (a). Voluntary placement does  
19 not include placement of a child who has been removed from the  
20 care and custody of his or her parent or legal guardian and placed  
21 in foster care by a child welfare services agency.

22    (d) (1) Except as provided in paragraph (2), the maximum  
23 licensed capacity for a crisis nursery program shall be 14 children.

24    (2) A facility licensed on or before January 1, 2004, as a group  
25 home for children under the age of six years with a licensed  
26 capacity greater than 14 children, but less than 21 children, that  
27 provides crisis nursery services shall be allowed to retain its  
28 capacity if issued a crisis nursery license until there is a change in  
29 the licensee’s program, location, or client population.

30    (e) Each crisis nursery shall collect and maintain information,  
31 in a format specified by the department, indicating the total number  
32 of children placed in the program, the length of stay for each child,  
33 the reasons given for the use of the crisis nursery, and the age of  
34 each child. This information shall be made available to the  
35 department upon request.

36    (f) Notwithstanding Section 1596.80, a crisis nursery may  
37 provide child day care services for children under the age of six  
38 years at the same site as the crisis nursery. A child may not receive

1 child day care services at a crisis nursery for more than 30 calendar  
2 days in a six-month period unless the department issues an  
3 exception. A child who is receiving child day care services shall  
4 be counted in the licensed capacity.

5 (g) Exceptions to group home licensing regulations pursuant to  
6 subdivision (c) of Section 84200 of Title 22 of the California Code  
7 of Regulations, in effect on August 1, 2004, for county-operated  
8 or county-contracted emergency shelter care facilities that care for  
9 children under the age of six years for no more than 30 days, shall  
10 be contained in regulations for crisis nurseries.

11 (h) This section shall become operative on July 1, 2012.

12 SEC. 2. Section 1526.8 of the Health and Safety Code is  
13 amended to read:

14 1526.8. (a) It is the intent of the Legislature that the department  
15 develop modified staffing levels and requirements for crisis  
16 nurseries, provided that the health, safety, and well-being of the  
17 children in care are protected and maintained.

18 (b) The department shall allow the use of fully trained and  
19 qualified volunteers as caregivers in a crisis nursery, subject to the  
20 following conditions:

21 (1) Volunteers shall be fingerprinted for the purpose of  
22 conducting a criminal record review as specified in subdivision  
23 (b) of Section 1522.

24 (2) Volunteers shall complete a child abuse central index check  
25 as specified in Section 1522.1.

26 (3) Volunteers shall be in good physical health and be tested  
27 for tuberculosis not more than one year prior to, or seven days  
28 after, initial presence in the facility.

29 (4) Prior to assuming the duties and responsibilities of a crisis  
30 caregiver or being counted in the staff-to-child ratio, volunteers  
31 shall complete at least eight hours of initial training divided as  
32 follows:

33 (A) Four hours of crisis nursery job shadowing.

34 (B) Two hours of review of community care licensing  
35 regulations.

36 (C) Two hours of review of the crisis nursery program, including  
37 the facility mission statement, goals and objectives, and special  
38 needs of the client population they serve.

(5) Within 90 days, volunteers who are included in the staff-to-child ratios shall complete at least 20 hours of training divided as follows:

(A) Twelve hours of pediatric first aid and pediatric cardiopulmonary resuscitation.

(B) Eight hours of child care health and safety issues.

(6) Volunteers who meet the requirements of paragraphs (1), (2), and (3), but who have not completed the training specified in paragraph (4) or (5) may assist a fully trained and qualified staff person in performing child care duties. However, these volunteers shall not be left alone with children, shall always be under the direct supervision and observation of a fully trained and qualified staff person, and shall not be counted in meeting the minimum staff-to-child ratio requirements.

(c) The department shall allow the use of fully trained and qualified volunteers to be counted in the staff-to-child ratio in a crisis nursery subject to the following conditions:

(1) The volunteers have fulfilled the requirements in paragraphs (1) to (4), inclusive, of subdivision (b).

(2) There shall be at least one fully qualified and employed staff person on site at all times.

(3) (A) There shall be at least one employed staff or volunteer caregiver for each group of three children, or fraction thereof, from 7 a.m. to 7 p.m.

(B) There shall be at least one paid caregiver or volunteer caregiver for each group of four children, or fraction thereof, from 7 p.m. to 7 a.m.

(C) There shall be at least one employed staff person present for every volunteer caregiver used by the crisis nursery for the purpose of meeting the minimum caregiver staffing requirements.

(d) There shall be at least one staff person or volunteer caregiver awake at all times from 7 p.m. to 7 a.m.

SEC. 3. Section 1530.5 of the Health and Safety Code is amended to read:

1530.5. (a) The department, in establishing regulations, including provisions for periodic inspections, under this chapter for foster family homes and certified family homes of foster family agencies, shall consider these homes as private residences, and shall establish regulations for these foster family homes and certified family homes of foster family agencies as an entirely

1 separate regulation package from regulations for all other  
2 community care facilities. Certified family homes of foster family  
3 agencies and foster family homes shall not be subject to civil  
4 penalties pursuant to this chapter, except for penalties imposed  
5 pursuant to Sections 1522 and 1547. The department, in adopting  
6 and amending regulations for these foster family homes and  
7 certified family homes of foster family agencies, shall consult with  
8 foster parent and foster family agency organizations in order to  
9 ensure compliance with the requirement of this section.

10 (b) This section shall not apply to small family homes or foster  
11 family agencies as defined in Section 1502.

12 SEC. 4. Section 1596.792 of the Health and Safety Code, as  
13 amended by Section 4 of Chapter 519 of the Statutes of 2010, is  
14 amended to read:

15 1596.792. This chapter, Chapter 3.5 (commencing with Section  
16 1596.90), and Chapter 3.6 (commencing with Section 1597.30)  
17 do not apply to any of the following:

18 (a) Any health facility, as defined by Section 1250.

19 (b) Any clinic, as defined by Section 1202.

20 (c) Any community care facility, as defined by Section 1502.

21 (d) Any family day care home providing care for the children  
22 of only one family in addition to the operator's own children.

23 (e) Any cooperative arrangement between parents for the care  
24 of their children when no payment is involved and the arrangement  
25 meets all of the following conditions:

26 (1) In a cooperative arrangement, parents shall combine their  
27 efforts so that each parent, or set of parents, rotates as the  
28 responsible caregiver with respect to all the children in the  
29 cooperative.

30 (2) Any person caring for children shall be a parent, legal  
31 guardian, stepparent, grandparent, aunt, uncle, or adult sibling of  
32 at least one of the children in the cooperative.

33 (3) There can be no payment of money or receipt of in-kind  
34 income in exchange for the provision of care. This does not prohibit  
35 in-kind contributions of snacks, games, toys, blankets for napping,  
36 pillows, and other materials parents deem appropriate for their  
37 children. It is not the intent of this paragraph to prohibit payment  
38 for outside activities, the amount of which may not exceed the  
39 actual cost of the activity.

1 (4) No more than 12 children are receiving care in the same  
2 place at the same time.

3 (f) Any arrangement for the receiving and care of children by  
4 a relative.

5 (g) Any public recreation program. “Public recreation program”  
6 means a program operated by the state, city, county, special district,  
7 school district, community college district, chartered city, or  
8 chartered city and county that meets either of the following criteria:

9 (1) The program is operated only during hours other than normal  
10 school hours for kindergarten and grades 1 to 12, inclusive, in the  
11 public school district where the program is located, or operated  
12 only during periods when students in kindergarten and grades 1  
13 to 12, inclusive, are normally not in session in the public school  
14 district where the program is located, for either of the following  
15 periods:

16 (A) For under ~~16~~ 20 hours per week.

17 (B) For a total of ~~12~~ 14 weeks or less during a 12-month period.  
18 This total applies to any ~~12~~ 14 weeks within any 12-month period,  
19 without regard to whether the weeks are consecutive.

20 In determining “normal school hours” or periods when students  
21 are “normally not in session,” the State Department of Social  
22 Services shall, when appropriate, consider the normal school hours  
23 or periods when students are normally not in session for students  
24 attending a year-round school.

25 (2) The program is provided to children who are over the age  
26 of four years and nine months and not yet enrolled in school and  
27 the program is operated during either of the following periods:

28 (A) For under 16 hours per week.

29 (B) For a total of 12 weeks or less during a 12-month period.  
30 This total applies to any 12 weeks within any 12-month period,  
31 without regard to whether the weeks are consecutive.

32 (3) The program is provided to children under the age of four  
33 years and nine months with sessions that run 12 hours per week  
34 or less and are 12 weeks or less in duration. A program subject to  
35 this paragraph may permit children to be enrolled in consecutive  
36 sessions throughout the year. However, the program shall not  
37 permit children to be enrolled in a combination of sessions that  
38 total more than 12 hours per week for each child.

39 (h) Extended day care programs operated by public or private  
40 schools.



1 (i) Any school parenting program or adult education child care  
2 program that satisfies both of the following:

3 (1) Is operated by a public school district or operated by an  
4 individual or organization pursuant to a contract with a public  
5 school district.

6 (2) Is not operated by an organization specified in Section  
7 1596.793.

8 (j) Any child day care program that operates only one day per  
9 week for no more than four hours on that one day.

10 (k) Any child day care program that offers temporary child care  
11 services to parents and that satisfies both of the following:

12 (1) The services are only provided to parents and guardians who  
13 are on the same premises as the site of the child day care program.

14 (2) The child day care program is not operated on the site of a  
15 ski facility, shopping mall, department store, or any other similar  
16 site identified by the department by regulation.

17 (l) Any program that provides activities for children of an  
18 instructional nature in a classroom-like setting and satisfies both  
19 of the following:

20 (1) Is operated only during periods of the year when students  
21 in kindergarten and grades 1 to 12, inclusive, are normally not in  
22 session in the public school district where the program is located  
23 due to regularly scheduled vacations.

24 (2) Offers any number of sessions during the period specified  
25 in paragraph (1) that when added together do not exceed a total of  
26 30 days when only schoolage children are enrolled in the program  
27 or 15 days when children younger than schoolage are enrolled in  
28 the program.

29 (m) A program facility administered by the Department of  
30 Corrections and Rehabilitation that (1) houses both women and  
31 their children, and (2) is specifically designated for the purpose of  
32 providing substance abuse treatment and maintaining and  
33 strengthening the family unit pursuant to Chapter 4 (commencing  
34 with Section 3410) of Title 2 of Part 3 of the Penal Code, or  
35 Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2  
36 of that code.

37 (n) Any crisis nursery, as defined in subdivision (a) of Section  
38 1516.

1 SEC. 5. Section 1596.792 of the Health and Safety Code, as  
2 amended by Section 5 of Chapter 519 of the Statutes of 2010, is  
3 repealed.

4 SEC. 6. ~~Section 4094 of the Welfare and Institutions Code is~~  
5 ~~amended to read:~~

6 ~~4094. (a) The State Department of Mental Health shall~~  
7 ~~establish, by regulations adopted at the earliest possible date, but~~  
8 ~~no later than December 31, 1994, program standards for any facility~~  
9 ~~licensed as a community treatment facility. This section shall apply~~  
10 ~~only to community treatment facilities described in this subdivision.~~

11 ~~(b) A certification of compliance issued by the State Department~~  
12 ~~of Mental Health shall be a condition of licensure for the~~  
13 ~~community treatment facility by the State Department of Social~~  
14 ~~Services. The department may, upon the request of a county,~~  
15 ~~delegate the certification and supervision of a community treatment~~  
16 ~~facility to the county department of mental health.~~

17 ~~(c) The State Department of Mental Health shall adopt~~  
18 ~~regulations to include, but not be limited to, the following:~~

19 ~~(1) Procedures by which the Director of Mental Health shall~~  
20 ~~certify that a facility requesting licensure as a community treatment~~  
21 ~~facility pursuant to Chapter 3 (commencing with Section 1500) of~~  
22 ~~Division 2 of the Health and Safety Code is in compliance with~~  
23 ~~program standards established pursuant to this section.~~

24 ~~(2) Procedures by which the Director of Mental Health shall~~  
25 ~~deny a certification to a facility or decertify a facility that is~~  
26 ~~licensed as a community treatment facility pursuant to Chapter 3~~  
27 ~~(commencing with Section 1500) of Division 2 of the Health and~~  
28 ~~Safety Code, but no longer complying with program standards~~  
29 ~~established pursuant to this section, in accordance with Chapter 5~~  
30 ~~(commencing with Section 11500) of Part 1 of Division 3 of Title~~  
31 ~~2 of the Government Code.~~

32 ~~(3) Provisions for site visits by the State Department of Mental~~  
33 ~~Health for the purpose of reviewing a facility's compliance with~~  
34 ~~program standards established pursuant to this section.~~

35 ~~(4) Provisions for the community care licensing staff of the~~  
36 ~~State Department of Social Services to report to the State~~  
37 ~~Department of Mental Health when there is reasonable cause to~~  
38 ~~believe that a community treatment facility is not in compliance~~  
39 ~~with program standards established pursuant to this section.~~

1     ~~(5) Provisions for the State Department of Mental Health to~~  
2     ~~provide consultation and documentation to the State Department~~  
3     ~~of Social Services in any administrative proceeding regarding~~  
4     ~~denial, suspension, or revocation of a community treatment facility~~  
5     ~~license.~~

6     ~~(d) The standards adopted by regulations pursuant to subdivision~~  
7     ~~(a) shall include, but not be limited to, standards for treatment,~~  
8     ~~staffing, and for the use of psychotropic medication, discipline,~~  
9     ~~and restraints in the facilities. The standards shall also meet the~~  
10    ~~requirements of Section 4094.5.~~

11    ~~(e) (1) A community treatment facility shall not be required by~~  
12    ~~the State Department of Mental Health to have 24-hour onsite~~  
13    ~~licensed nursing staff, but shall retain at least one full-time, or~~  
14    ~~full-time-equivalent, registered nurse onsite if all of the following~~  
15    ~~are applicable:~~

16    ~~(A) The facility does not use mechanical restraint.~~

17    ~~(B) The facility only admits children who have been assessed,~~  
18    ~~at the point of admission, by a licensed primary care provider and~~  
19    ~~a licensed psychiatrist, who have concluded, with respect to each~~  
20    ~~child, that the child does not require medical services that require~~  
21    ~~24-hour nursing coverage. For purposes of this section, a “primary~~  
22    ~~care provider” includes a person defined in Section 14254, or a~~  
23    ~~nurse practitioner who has the responsibility for providing initial~~  
24    ~~and primary care to patients, for maintaining the continuity of care,~~  
25    ~~and for initiating referral for specialist care.~~

26    ~~(C) Other medical or nursing staff shall be available on call to~~  
27    ~~provide appropriate services, when necessary, within one hour.~~

28    ~~(D) All direct care staff shall be trained in first aid and~~  
29    ~~cardiopulmonary resuscitation, and in emergency intervention~~  
30    ~~techniques and methods approved by the Community Care~~  
31    ~~Licensing Division of the State Department of Social Services.~~

32    ~~(2) The State Department of Mental Health may adopt~~  
33    ~~emergency regulations as necessary to implement this subdivision.~~  
34    ~~The adoption of these regulations shall be deemed to be an~~  
35    ~~emergency and necessary for the immediate preservation of the~~  
36    ~~public peace, health and safety, and general welfare. The~~  
37    ~~regulations shall be exempt from review by the Office of~~  
38    ~~Administrative Law and shall become effective immediately upon~~  
39    ~~filing with the Secretary of State. The regulations shall not remain~~  
40    ~~in effect more than 180 days unless the adopting agency complies~~

1 with all the provisions of Chapter 3.5 (commencing with Section  
2 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
3 as required by subdivision (e) of Section 11346.1 of the  
4 Government Code.

5 (f) During the initial public comment period for the adoption  
6 of the regulations required by this section, the community care  
7 facility licensing regulations proposed by the State Department of  
8 Social Services and the program standards proposed by the State  
9 Department of Mental Health shall be presented simultaneously.

10 (g) A minor shall be admitted to a community treatment facility  
11 only if the requirements of Section 4094.5 and either of the  
12 following conditions are met:

13 (1) The minor is within the jurisdiction of the juvenile court,  
14 and has made voluntary application for mental health services  
15 pursuant to Section 6552.

16 (2) Informed consent is given by a parent, guardian, conservator,  
17 or other person having custody of the minor.

18 (h) Any minor admitted to a community treatment facility shall  
19 have the same due process rights afforded to a minor who may be  
20 admitted to a state hospital, pursuant to the holding in *In re Roger*  
21 *S.* (1977) 19 Cal.3d 921. Minors who are wards or dependents of  
22 the court and to whom this subdivision applies shall be afforded  
23 due process in accordance with Section 6552 and related case law,  
24 including *In re Michael E.* (1975) 15 Cal.3d 183. Regulations  
25 adopted pursuant to Section 4094 shall specify the procedures for  
26 ensuring these rights, including provisions for notification of rights  
27 and the time and place of hearings.

28 (i) Notwithstanding Section 13340 of the Government Code,  
29 the sum of forty-five thousand dollars (\$45,000) is hereby  
30 appropriated annually from the General Fund to the State  
31 Department of Mental Health for one personnel year to carry out  
32 the provisions of this section.

33 *SEC. 6. Section 4094 of the Welfare and Institutions Code is*  
34 *amended to read:*

35 4094. (a) The State Department of Mental Health shall  
36 establish, by regulations adopted at the earliest possible date, but  
37 no later than December 31, 1994, program standards for any facility  
38 licensed as a community treatment facility. This section shall apply  
39 only to community treatment facilities described in this subdivision.

1 (b) Commencing July 1, 2012, the State Department of Health  
2 Care Services may adopt or amend regulations pertaining to the  
3 program standards for any facility licensed as a community  
4 treatment facility.

5 (c) A certification of compliance issued by the State Department  
6 of Health Care Services shall be a condition of licensure for the  
7 community treatment facility by the State Department of Social  
8 Services. The department may, upon the request of a county,  
9 delegate the certification and supervision of a community treatment  
10 facility to the county department of mental health.

11 (d) The State Department of Health Care Services shall adopt  
12 regulations to include, but not be limited to, the following:

13 (1) Procedures by which the Director of Health Care Services  
14 shall certify that a facility requesting licensure as a community  
15 treatment facility pursuant to Chapter 3 (commencing with Section  
16 1500) of Division 2 of the Health and Safety Code is in compliance  
17 with program standards established pursuant to this section.

18 (2) Procedures by which the Director of Health Care Services  
19 shall deny a certification to a facility or decertify a facility that is  
20 licensed as a community treatment facility pursuant to Chapter 3  
21 (commencing with Section 1500) of Division 2 of the Health and  
22 Safety Code, but no longer complying with program standards  
23 established pursuant to this section, in accordance with Chapter 5  
24 (commencing with Section 11500) of Part 1 of Division 3 of Title  
25 2 of the Government Code.

26 (3) Provisions for site visits by the State Department of Health  
27 Care Services for the purpose of reviewing a facility's compliance  
28 with program standards established pursuant to this section.

29 (4) Provisions for the community care licensing staff of the  
30 State Department of Social Services to report to the State  
31 Department of Health Care Services when there is reasonable cause  
32 to believe that a community treatment facility is not in compliance  
33 with program standards established pursuant to this section.

34 (5) Provisions for the State Department of Health Care Services  
35 to provide consultation and documentation to the State Department  
36 of Social Services in any administrative proceeding regarding  
37 denial, suspension, or revocation of a community treatment facility  
38 license.

39 (e)

1 (e) The standards adopted by regulations pursuant to  
2 subdivisions (a) and (b) shall include, but not be limited to,  
3 standards for treatment, staffing, and for the use of psychotropic  
4 medication, discipline, and restraints in the facilities. The standards  
5 shall also meet the requirements of Section 4094.5.

6 ~~(f) (1) Until January 1, 2014, all of the following are applicable:~~

7 ~~(A)~~

8 (f) (1) A community treatment facility shall not be required  
9 by the State Department of Health Care Services to have 24-hour  
10 onsite licensed nursing staff, but shall retain at least one full-time,  
11 or full-time-equivalent, registered nurse onsite if ~~both~~ *all* of the  
12 following are applicable:

13 (i)

14 (A) The facility does not use mechanical restraint.

15 (ii)

16 (B) The facility only admits children who have been assessed,  
17 at the point of admission, by a licensed primary care provider and  
18 a licensed psychiatrist, who have concluded, with respect to each  
19 child, that the child does not require medical services that require  
20 24-hour nursing coverage. For purposes of this section, a “primary  
21 care provider” includes a person defined in Section 14254, or a  
22 nurse practitioner who has the responsibility for providing initial  
23 and primary care to patients, for maintaining the continuity of care,  
24 and for initiating referral for specialist care.

25 ~~(B)~~

26 (C) Other medical or nursing staff shall be available on call to  
27 provide appropriate services, when necessary, within one hour.

28 ~~(C)~~

29 (D) All direct care staff shall be trained in first aid and  
30 cardiopulmonary resuscitation, and in emergency intervention  
31 techniques and methods approved by the Community Care  
32 Licensing Division of the State Department of Social Services.

33 (2) The State Department of Health Care Services may adopt  
34 emergency regulations as necessary to implement this subdivision.  
35 The adoption of these regulations shall be deemed to be an  
36 emergency and necessary for the immediate preservation of the  
37 public peace, health and safety, and general welfare. The  
38 regulations shall be exempt from review by the Office of  
39 Administrative Law and shall become effective immediately upon  
40 filing with the Secretary of State. The regulations shall not remain

1 in effect more than 180 days unless the adopting agency complies  
2 with all the provisions of Chapter 3.5 (commencing with Section  
3 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
4 as required by subdivision (e) of Section 11346.1 of the  
5 Government Code.

6 (g) During the initial public comment period for the adoption  
7 of the regulations required by this section, the community care  
8 facility licensing regulations proposed by the State Department of  
9 Social Services and the program standards proposed by the State  
10 Department of Health Care Services shall be presented  
11 simultaneously.

12 (h) A minor shall be admitted to a community treatment facility  
13 only if the requirements of Section 4094.5 and either of the  
14 following conditions are met:

15 (1) The minor is within the jurisdiction of the juvenile court,  
16 and has made voluntary application for mental health services  
17 pursuant to Section 6552.

18 (2) Informed consent is given by a parent, guardian, conservator,  
19 or other person having custody of the minor.

20 (i) Any minor admitted to a community treatment facility shall  
21 have the same due process rights afforded to a minor who may be  
22 admitted to a state hospital, pursuant to the holding in *In re Roger*  
23 *S.* (1977) 19 Cal.3d 921. Minors who are wards or dependents of  
24 the court and to whom this subdivision applies shall be afforded  
25 due process in accordance with Section 6552 and related case law,  
26 including *In re Michael E.* (1975) 15 Cal.3d 183. Regulations  
27 adopted pursuant to Section 4094 shall specify the procedures for  
28 ensuring these rights, including provisions for notification of rights  
29 and the time and place of hearings.

30 (j) Notwithstanding Section 13340 of the Government Code,  
31 the sum of forty-five thousand dollars (\$45,000) is hereby  
32 appropriated annually from the General Fund to the State  
33 Department of Health Care Services for one personnel year to  
34 carry out the provisions of this section.

35 SEC. 7. Section 11462 of the Welfare and Institutions Code is  
36 amended to read:

37 11462. (a) (1) Effective July 1, 1990, foster care providers  
38 licensed as group homes, as defined in departmental regulations,  
39 including public child care institutions, as defined in Section  
40 11402.5, shall have rates established by classifying each group

1 home program and applying the standardized schedule of rates.  
2 The department shall collect information from group providers  
3 beginning January 1, 1990, in order to classify each group home  
4 program.

5 (2) Notwithstanding paragraph (1), foster care providers licensed  
6 as group homes shall have rates established only if the group home  
7 is organized and operated on a nonprofit basis as required under  
8 subdivision (h) of Section 11400. The department shall terminate  
9 the rate effective January 1, 1993, of any group home not organized  
10 and operated on a nonprofit basis as required under subdivision  
11 (h) of Section 11400.

12 (3) (A) The department shall determine, consistent with the  
13 requirements of this chapter and other relevant requirements under  
14 law, the rate classification level (RCL) for each group home  
15 program on a biennial basis. Submission of the biennial rate  
16 application shall be made according to a schedule determined by  
17 the department.

18 (B) The department shall adopt regulations to implement this  
19 paragraph. The adoption, amendment, repeal, or readoption of a  
20 regulation authorized by this paragraph is deemed to be necessary  
21 for the immediate preservation of the public peace, health and  
22 safety, or general welfare, for purposes of Sections 11346.1 and  
23 11349.6 of the Government Code, and the department is hereby  
24 exempted from the requirement to describe specific facts showing  
25 the need for immediate action.

26 (b) A group home program shall be initially classified, for  
27 purposes of emergency regulations, according to the level of care  
28 and services to be provided using a point system developed by the  
29 department and described in the report, "The Classification of  
30 Group Home Programs under the Standardized Schedule of Rates  
31 System," prepared by the State Department of Social Services,  
32 August 30, 1989.

33 (c) The rate for each RCL has been determined by the  
34 department with data from the AFDC-FC Group Home Rate  
35 Classification Pilot Study. The rates effective July 1, 1990, were  
36 developed using 1985 calendar year costs and reflect adjustments  
37 to the costs for each fiscal year, starting with the 1986–87 fiscal  
38 year, by the amount of the California Necessities Index computed  
39 pursuant to the methodology described in Section 11453. The data



1 obtained by the department using 1985 calendar year costs shall  
2 be updated and revised by January 1, 1993.

3 (d) As used in this section, “standardized schedule of rates”  
4 means a listing of the 14 rate classification levels, and the single  
5 rate established for each RCL.

6 (e) Except as specified in paragraph (1), the department shall  
7 determine the RCL for each group home program on a prospective  
8 basis, according to the level of care and services that the group  
9 home operator projects will be provided during the period of time  
10 for which the rate is being established.

11 (1) (A) (i) For new and existing providers requesting the  
12 establishment of an RCL, and for existing group home programs  
13 requesting an RCL increase, the department shall determine the  
14 RCL no later than 13 months after the effective date of the  
15 provisional rate. The determination of the RCL shall be based on  
16 a program audit of documentation and other information that  
17 verifies the level of care and supervision provided by the group  
18 home program during a period of the two full calendar months or  
19 60 consecutive days, whichever is longer, preceding the date of  
20 the program audit, unless the group home program requests a lower  
21 RCL. The program audit shall not cover the first six months of  
22 operation under the provisional rate.

23 (ii) For audit purposes, if the group home program serves a  
24 mixture of AFDC-FC eligible and ineligible children, the weighted  
25 hours for child care and social work services provided and the  
26 capacity of the group home shall be adjusted by the ratio of  
27 AFDC-FC eligible children to all children in placement.

28 (iii) Pending the department’s issuance of the program audit  
29 report that determines the RCL for the group home program, the  
30 group home program shall be eligible to receive a provisional rate  
31 that shall be based on the level of care and service that the group  
32 home program proposes it will provide. The group home program  
33 shall be eligible to receive only the RCL determined by the  
34 department during the pendency of any appeal of the department’s  
35 RCL determination.

36 (B) A group home program may apply for an increase in its  
37 RCL no earlier than two years from the date the department has  
38 determined the group home program’s rate, unless the host county,  
39 the primary placing county, or a regional consortium of counties  
40 submits to the department in writing that the program is needed

1 in that county, that the provider is capable of effectively and  
2 efficiently operating the proposed program, and that the provider  
3 is willing and able to accept AFDC-FC children for placement  
4 who are determined by the placing agency to need the level of care  
5 and services that will be provided by the program.

6 (C) To ensure efficient administration of the department's audit  
7 responsibilities, and to avoid the fraudulent creation of records,  
8 group home programs shall make records that are relevant to the  
9 RCL determination available to the department in a timely manner.  
10 Except as provided in this section, the department may refuse to  
11 consider, for purposes of determining the rate, any documents that  
12 are relevant to the determination of the RCL that are not made  
13 available by the group home provider by the date the group home  
14 provider requests a hearing on the department's RCL  
15 determination. The department may refuse to consider, for purposes  
16 of determining the rate, the following records, unless the group  
17 home provider makes the records available to the department  
18 during the fieldwork portion of the department's program audit:

19 (i) Records of each employee's full name, home address,  
20 occupation, and social security number.

21 (ii) Time records showing when the employee begins and ends  
22 each work period, meal periods, split shift intervals, and total daily  
23 hours worked.

24 (iii) Total wages paid each payroll period.

25 (iv) Records required to be maintained by licensed group home  
26 providers under Title 22 of the California Code of Regulations  
27 that are relevant to the RCL determination.

28 (D) To minimize financial abuse in the startup of group home  
29 programs, when the department's RCL determination is more than  
30 three levels lower than the RCL level proposed by the group home  
31 provider, and the group home provider does not appeal the  
32 department's RCL determination, the department shall terminate  
33 the rate of a group home program 45 days after issuance of its  
34 program audit report. When the group home provider requests a  
35 hearing on the department's RCL determination, and the RCL  
36 determined by the director under subparagraph (E) is more than  
37 three levels lower than the RCL level proposed by the group home  
38 provider, the department shall terminate the rate of a group home  
39 program within 30 days of issuance of the director's decision.  
40 Notwithstanding the reapplication provisions in subparagraph (B),

1 the department shall deny any request for a new or increased RCL  
2 from a group home provider whose RCL is terminated pursuant  
3 to this subparagraph, for a period of no greater than two years from  
4 the effective date of the RCL termination.

5 (E) A group home provider may request a hearing of the  
6 department's RCL determination under subparagraph (A) no later  
7 than 30 days after the date the department issues its RCL  
8 determination. The department's RCL determination shall be final  
9 if the group home provider does not request a hearing within the  
10 prescribed time. Within 60 days of receipt of the request for  
11 hearing, the department shall conduct a hearing on the RCL  
12 determination. The standard of proof shall be the preponderance  
13 of the evidence and the burden of proof shall be on the department.  
14 The hearing officer shall issue the proposed decision within 45  
15 days of the close of the evidentiary record. The director shall adopt,  
16 reject, or modify the proposed decision, or refer the matter back  
17 to the hearing officer for additional evidence or findings within  
18 100 days of issuance of the proposed decision. If the director takes  
19 no action on the proposed decision within the prescribed time, the  
20 proposed decision shall take effect by operation of law.

21 (2) Group home programs that fail to maintain at least the level  
22 of care and services associated with the RCL upon which their rate  
23 was established shall inform the department. The department shall  
24 develop regulations specifying procedures to be applied when a  
25 group home fails to maintain the level of services projected,  
26 including, but not limited to, rate reduction and recovery of  
27 overpayments.

28 (3) The department shall not reduce the rate, establish an  
29 overpayment, or take other actions pursuant to paragraph (2) for  
30 any period that a group home program maintains the level of care  
31 and services associated with the RCL for children actually residing  
32 in the facility. Determinations of levels of care and services shall  
33 be made in the same way as modifications of overpayments are  
34 made pursuant to paragraph (2) of subdivision (b) of Section  
35 11466.2.

36 (4) A group home program that substantially changes its staffing  
37 pattern from that reported in the group home program statement  
38 shall provide notification of this change to all counties that have  
39 placed children currently in care. This notification shall be provided

whether or not the RCL for the program may change as a result of the change in staffing pattern.

(f) (1) The standardized schedule of rates for the 2002–03, 2003–04, 2004–05, 2005–06, 2006–07, and 2007–08 fiscal years is:

Rate	Point Ranges	FY 2002–03, 2003–04, 2004–05, 2005–06, 2006–07, and 2007–08
Classification		
Level		Standard Rate
1	Under 60	\$1,454
2	60– 89	1,835
3	90–119	2,210
4	120–149	2,589
5	150–179	2,966
6	180–209	3,344
7	210–239	3,723
8	240–269	4,102
9	270–299	4,479
10	300–329	4,858
11	330–359	5,234
12	360–389	5,613
13	390–419	5,994
14	420 & Up	6,371

(2) (A) For group home programs that receive AFDC-FC payments for services performed during the 2002–03, 2003–04, 2004–05, 2005–06, 2006–07, 2007–08, 2008–09, and 2009–10 fiscal years, the adjusted RCL point ranges below shall be used for establishing the biennial rates for existing programs, pursuant to paragraph (3) of subdivision (a) and in performing program audits and in determining any resulting rate reduction, overpayment assessment, or other actions pursuant to paragraph (2) of subdivision (e):

Rate	Adjusted Point Ranges
Classification	for the 2002–03, 2003–04, 2004–05, 2005–06, 2006–07, 2007–08, 2008–09, and 2009–10 Fiscal Years
Level	
1	Under 54

1	2	54– 81
2	3	82–110
3	4	111–138
4	5	139–167
5	6	168–195
6	7	196–224
7	8	225–253
8	9	254–281
9	10	282–310
10	11	311–338
11	12	339–367
12	13	368–395
13	14	396 & Up

(B) Notwithstanding subparagraph (A), foster care providers operating group homes during the 2002–03, 2003–04, 2004–05, 2005–06, 2006–07, 2007–08, 2008–09, and 2009–10 fiscal years shall remain responsible for ensuring the health and safety of the children placed in their programs in accordance with existing applicable provisions of the Health and Safety Code and community care licensing regulations, as contained in Title 22 of the Code of California Regulations.

(C) Subparagraph (A) shall not apply to program audits of group home programs with provisional rates established pursuant to paragraph (1) of subdivision (e). For those program audits, the RCL point ranges in paragraph (1) shall be used.

(D) Rates applicable for the 2009–10 fiscal year pursuant to the act that adds this subparagraph shall be effective October 1, 2009.

(3) (A) For group home programs that receive AFDC-FC payments for services performed during the 2009–10 fiscal year the adjusted RCL point ranges below shall be used for establishing the biennial rates for existing programs, pursuant to paragraph (3) of subdivision (a) and in performing program audits and in determining any resulting rate reduction, overpayment assessment, or other actions pursuant to paragraph (2) of subdivision (e):

Rate Classification Level	Adjusted Point Ranges for the 2009–10 Fiscal Years
1	Under 39

1	2	39–64
2	3	65–90
3	4	91–115
4	5	116–141
5	6	142–167
6	7	168–192
7	8	193–218
8	9	219–244
9	10	245–270
10	11	271–295
11	12	296–321
12	13	322–347
13	14	348 & Up

14  
 15 (B) Notwithstanding subparagraph (A), foster care providers  
 16 operating group homes during the 2009–10 fiscal year shall remain  
 17 responsible for ensuring the health and safety of the children placed  
 18 in their programs in accordance with existing applicable provisions  
 19 of the Health and Safety Code and community care licensing  
 20 regulations as contained in Title 22 of the California Code of  
 21 Regulations.

22 (C) Subparagraph (A) shall not apply to program audits of group  
 23 home programs with provisional rates established pursuant to  
 24 paragraph (1) of subdivision (e). For those program audits, the  
 25 RCL point ranges in paragraph (1) shall be used.

26 (g) (1) (A) For the 1999–2000 fiscal year, the standardized  
 27 rate for each RCL shall be adjusted by an amount equal to the  
 28 California Necessities Index computed pursuant to the methodology  
 29 described in Section 11453. The resultant amounts shall constitute  
 30 the new standardized schedule of rates, subject to further  
 31 adjustment pursuant to subparagraph (B).

32 (B) In addition to the adjustment in subparagraph (A),  
 33 commencing January 1, 2000, the standardized rate for each RCL  
 34 shall be increased by 2.36 percent, rounded to the nearest dollar.  
 35 The resultant amounts shall constitute the new standardized  
 36 schedule of rates.

37 (2) Beginning with the 2000–01 fiscal year, the standardized  
 38 schedule of rates shall be adjusted annually by an amount equal  
 39 to the CNI computed pursuant to Section 11453, subject to the

1 availability of funds. The resultant amounts shall constitute the  
2 new standardized schedule of rates.

3 (3) Effective January 1, 2001, the amount included in the  
4 standard rate for each Rate Classification Level (RCL) for the  
5 salaries, wages, and benefits for staff providing child care and  
6 supervision or performing social work activities, or both, shall be  
7 increased by 10 percent. This additional funding shall be used by  
8 group home programs solely to supplement staffing, salaries,  
9 wages, and benefit levels of staff specified in this paragraph. The  
10 standard rate for each RCL shall be recomputed using this adjusted  
11 amount and the resultant rates shall constitute the new standardized  
12 schedule of rates. The department may require a group home  
13 receiving this additional funding to certify that the funding was  
14 utilized in accordance with the provisions of this section.

15 (4) Effective January 1, 2008, the amount included in the  
16 standard rate for each RCL for the wages for staff providing child  
17 care and supervision or performing social work activities, or both,  
18 shall be increased by 5 percent, and the amount included for the  
19 payroll taxes and other employer-paid benefits for these staff shall  
20 be increased from 20.325 percent to 24 percent. The standard rate  
21 for each RCL shall be recomputed using these adjusted amounts,  
22 and the resulting rates shall constitute the new standardized  
23 schedule of rates.

24 (5) The new standardized schedule of rates as provided for in  
25 paragraph (4) shall be reduced by 10 percent, effective October 1,  
26 2009, and the resulting rates shall constitute the new standardized  
27 schedule of rates.

28 (6) The rates of licensed group home providers, whose rates are  
29 not established under the standardized schedule of rates, shall be  
30 reduced by 10 percent, effective October 1, 2009.

31 (h) The standardized schedule of rates pursuant to subdivisions  
32 (f) and (g) shall be implemented as follows:

33 (1) Any group home program that received an AFDC-FC rate  
34 in the prior fiscal year at or above the standard rate for the RCL  
35 in the current fiscal year shall continue to receive that rate.

36 (2) Any group home program that received an AFDC-FC rate  
37 in the prior fiscal year below the standard rate for the RCL in the  
38 current fiscal year shall receive the RCL rate for the current year.

39 (i) (1) The department shall not establish a rate for a new  
40 program of a new or existing provider, or for an existing program

1 at a new location of an existing provider, unless the provider  
2 submits a letter of recommendation from the host county, the  
3 primary placing county, or a regional consortium of counties that  
4 includes all of the following:

5 (A) That the program is needed by that county.

6 (B) That the provider is capable of effectively and efficiently  
7 operating the program.

8 (C) That the provider is willing and able to accept AFDC-FC  
9 children for placement who are determined by the placing agency  
10 to need the level of care and services that will be provided by the  
11 program.

12 (D) That, if the letter of recommendation is not being issued by  
13 the host county, the primary placing county has notified the host  
14 county of its intention to issue the letter and the host county was  
15 given the opportunity of 30 days to respond to this notification  
16 and to discuss options with the primary placing county.

17 (2) The department shall encourage the establishment of  
18 consortia of county placing agencies on a regional basis for the  
19 purpose of making decisions and recommendations about the need  
20 for, and use of, group home programs and other foster care  
21 providers within the regions.

22 (3) The department shall annually conduct a county-by-county  
23 survey to determine the unmet placement needs of children placed  
24 pursuant to Section 300 and Section 601 or 602, and shall publish  
25 its findings by November 1 of each year.

26 (j) The department shall develop regulations specifying  
27 ratesetting procedures for program expansions, reductions, or  
28 modifications, including increases or decreases in licensed capacity,  
29 or increases or decreases in level of care or services.

30 (k) For the purpose of this subdivision, “program change” means  
31 any alteration to an existing group home program planned by a  
32 provider that will increase the RCL or AFDC-FC rate. An increase  
33 in the licensed capacity or other alteration to an existing group  
34 home program that does not increase the RCL or AFDC-FC rate  
35 shall not constitute a program change.

36 (l) General unrestricted or undesignated private charitable  
37 donations and contributions made to charitable or nonprofit  
38 organizations shall not be deducted from the cost of providing  
39 services pursuant to this section. The donations and contributions



1 shall not be considered in any determination of maximum  
2 expenditures made by the department.

3 (m) The department shall, by October 1 of each year,  
4 commencing October 1, 1992, provide the Joint Legislative Budget  
5 Committee with a list of any new departmental requirements  
6 established during the previous fiscal year concerning the operation  
7 of group homes, and of any unusual, industrywide increase in costs  
8 associated with the provision of group care that may have  
9 significant fiscal impact on providers of group homes care. The  
10 committee may, in fiscal year 1993–94 and beyond, use the list to  
11 determine whether an appropriation for rate adjustments is needed  
12 in the subsequent fiscal year.

13 SEC. 8. Section 11466.2 of the Welfare and Institutions Code  
14 is amended to read:

15 11466.2. (a) (1) The department shall perform or have  
16 performed group home program and fiscal audits as needed. Group  
17 home programs shall maintain all child-specific, programmatic,  
18 personnel, fiscal, and other information affecting group home  
19 ratesetting and AFDC-FC payments for a period not less than five  
20 years.

21 (2) Notwithstanding paragraph (1), the department shall not  
22 establish an overpayment based upon a nonprovisional program  
23 audit conducted on less than a one-year audit period.

24 (3) Notwithstanding paragraph (2), the department may conduct  
25 audits covering a period of less than 12 months. Based upon the  
26 findings of these audits, the department may reduce a group home  
27 program's AFDC-FC rate or RCL pursuant to this paragraph.

28 (A) In an audit of a period of less than 12 months, if a provider's  
29 audited RCL is no more than three levels below the paid RCL, the  
30 provider's rate and RCL will be reduced to the audited RCL. The  
31 provider will be allowed the opportunity to bring a program into  
32 compliance with the paid RCL.

33 (B) In an audit of a period of less than 12 months, if the  
34 provider's audited RCL is more than three levels below the paid  
35 RCL, the department shall conduct an audit as identified in  
36 paragraph (2) of subdivision (a) of Section 11466.2. The provider  
37 will be allowed the opportunity to bring a program into compliance  
38 with the paid RCL.

39 (C) For audit purposes, when the group home program serves  
40 a mixture of AFDC-FC eligible and ineligible children, the

1 weighted hours for child care and social work services provided  
2 and the capacity of the group home shall be adjusted by the ratio  
3 of AFDC-FC eligible children to all children in placement.

4 (D) A group home provider may request a hearing of the  
5 department's RCL determination under subparagraph (A) no later  
6 than 30 days after the date the department issues its RCL  
7 determination. The department's RCL determination shall be final  
8 if the group home provider does not request a hearing within the  
9 prescribed time. Within 60 days of receipt of the request for  
10 hearing, the department shall conduct a hearing on the RCL  
11 determination. The standard of proof shall be the preponderance  
12 of the evidence and the burden of proof shall be on the department.  
13 The hearing officer shall issue the proposed decision within 45  
14 days of the close of the evidentiary record. The director shall adopt,  
15 reject, or modify the proposed decision, or refer the matter back  
16 to the hearing officer for additional evidence or findings within  
17 100 days of issuance of the proposed decision. If the director takes  
18 no action on the proposed decision within the prescribed time, the  
19 proposed decision shall take effect by operation of law.

20 (b) (1) The department shall develop regulations to correct a  
21 group home program's RCL, and to adjust the rate and to recover  
22 any overpayments resulting from an overstatement of the projected  
23 level of care and services.

24 (2) The department shall modify the amount of the overpayment  
25 pursuant to paragraph (1) in cases where the level of care and  
26 services provided per child in placement equals or exceeds the  
27 level associated with the program's RCL. In making this  
28 modification, the department shall determine whether services  
29 other than child care supervision were provided to children in  
30 placement in an amount that is at least proportionate, on a per child  
31 basis, to the amount projected in the group home's rate application.  
32 In cases where these services are provided in less than a  
33 proportionate amount, staffing for child care supervision in excess  
34 of its proportionate share shall not be substituted for nonchild care  
35 supervision staff hours.

36 (c) (1) In any audit conducted by the department, the  
37 department, or other public or private audit agency with which the  
38 department contracts, shall coordinate with the department's  
39 licensing and ratesetting entities so that a consistent set of  
40 standards, rules, and auditing protocols are maintained. The

1 department, or other public or private audit agency with which the  
2 department contracts, shall make available to all group home  
3 providers, in writing, any standards, rules, and auditing protocols  
4 to be used in those audits.

5 (2) The department shall provide exit interviews with providers  
6 whenever deficiencies found are explained and the opportunity  
7 exists for providers to respond. The department shall adopt  
8 regulations specifying the procedure for the appeal of audit  
9 findings.

10 SEC. 9. Section 18987.62 of the Welfare and Institutions Code  
11 is amended to read:

12 18987.62. (a) Upon request from a county, the director may  
13 waive regulations governing foster care payments or the operation  
14 of group homes to enable counties to implement the agreements  
15 established pursuant to Section 18987.61. Waivers granted by the  
16 director shall be applicable only to services provided under the  
17 terms of the agreement and for the duration of the agreement,  
18 whichever is earlier, unless the director authorizes an extension  
19 of the waiver pursuant to subdivision (f). A waiver shall only be  
20 granted when all of the following apply:

21 (1) The agreement promises to offer a worthwhile test of an  
22 innovative approach or to encourage the development of a new  
23 service for which there is a recognized need.

24 (2) The regulatory requirement prevents the implementation of  
25 the agreement.

26 (3) The requesting county proposes to monitor the agreement  
27 through performance measures that ensure that the purposes of the  
28 waived regulation will be achieved.

29 (b) The director shall take steps that are necessary to prevent  
30 the loss of any substantial amounts of federal funds as a result of  
31 the waivers granted under this section. The waiver may specify  
32 the extent to which the requesting county shall share in any cost  
33 resulting from any loss of federal funding.

34 (c) The director shall not waive regulations that apply to the  
35 health and safety of children served by participating private  
36 nonprofit agencies.

37 (d) The director shall notify the appropriate policy and fiscal  
38 committees of the Legislature whenever waivers are granted and  
39 when a waiver of regulations was required for the implementation  
40 of the county's proposed agreement. The director shall identify

1 the reason why the development of the services outlined by the  
2 agreement between the county and the service provider are hindered  
3 by the regulations to be waived.

4 (e) The county or private nonprofit agency shall fund an  
5 independent evaluation of the waiver as described in subdivision  
6 (f) of Section 18987.61.

7 (f) The director may grant a county's request to extend the  
8 waiver, in increments of three years, based upon a review and  
9 analysis of all of the following information:

10 (1) The results of the report, if required under subdivision (e)  
11 of Section 18987.61.

12 (2) The results of the independent evaluation of the waiver  
13 pursuant to subdivision (e) of this section.

14 (3) Justification for the extension, and verification of continued  
15 compliance with this section.

16 (g) (1) For any waiver approved on or before January 1, 2010,  
17 an extension of the waiver for up to an additional three years may  
18 be based upon the department's review and analysis of the  
19 information required to be submitted in subdivision (f).

20 (2) If an independent evaluation has not yet been completed,  
21 the department may grant an extension based upon its review of  
22 available information. However, an independent evaluation shall  
23 be required to be completed within one year prior to the end of the  
24 waiver.

25 SEC. 10. Notwithstanding the rulemaking provisions of the  
26 Administrative Procedure Act (Chapter 3.5 (commencing with  
27 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
28 Code), until regulations are filed with the Secretary of State, the  
29 State Department of Social Services may implement the  
30 amendments made to Sections 11462 and 11466.2 of the Health  
31 and Safety Code by this act through all-county letters or similar  
32 instructions from the Director of Social Services.

33 SEC. 11. No reimbursement is required by this act pursuant to  
34 Section 6 of Article XIII B of the California Constitution because  
35 the only costs that may be incurred by a local agency or school  
36 district will be incurred because this act creates a new crime or  
37 infraction, eliminates a crime or infraction, or changes the penalty  
38 for a crime or infraction, within the meaning of Section 17556 of  
39 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

O